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1283 COAST VILLAGE ROAD, SUITE 5

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BEFORE THE UNITED STATES FEDERAL COMMUNICATIONS
COMMISSION

MAR 13 1995

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In the Matter of

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Amendment of the Commission's
Rules to Preempt State and Local
Commercial Mobile Service
Providers

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RM - 8577

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COMMENTS ON THE CELLULAR
TELECOMMUNICATIONS INDUSTRY ASSOCIATION'S
PETITION FOR RULE MAKING

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March 4, 1995

Federal Communications Commission
1919 M Street N.W.
Washington, D. C. 20036

Attention: FCC Commissioners
Subject: Petition of CTIA to Preempt Local
Jurisdiction for Cellular Facility Siting - RM - 8577

Honorable Commissioners:

This letter is to object in the most strenuous terms to CTIA's proposal for preemption of state and local jurisdiction in the siting of cellular facilities. We appreciate that the Commission has extended the date for comment on this important issue. However, it is our belief that there is little publicity on this petition, and many interested parties are unaware of this proposal who would otherwise file comments in opposition.

In our experience, state and local jurisdiction over the siting of cellular facilities with respect to zoning and local land use concerns is vital. It ensures that adequate disclosure of potential effects and siting alternatives will be forthcoming, thereby allowing communities to tailor the appropriate permits to specific local siting opportunities and constraints. There is virtually no opportunity for local input into the siting process where the FCC has exclusive jurisdiction. And there is no demonstrated need to eliminate local jurisdiction based on a pattern of abusive and unnecessary regulatory interference on cellular applications.

Recently, the citizens of Santa Barbara City and County attempted to evaluate requests for new applications for cellular and other RF facility siting. There was great difficulty in obtaining information on even the most general characteristics of the facilities from staff of the FCC, who license these facilities. This experience taught us that the FCC does not have the staff or time to respond to legitimate requests for information from this local area, even where a substantial local effort is made to elicit information.

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There is even less reason to expect that with sole siting authority residing in Washington D. C., that any meaningful environmental or local land use matters would be taken into account in decision making.

A review of California's history with respect to denial of reasonable cellular siting requests does not show that a problem exists to warrant a change in jurisdiction. Since the California Public Utilities Commission has had jurisdiction to hear complaints from cellular carriers about denials by local agencies, only two complaints have been filed in several years. One was withdrawn. This does not suggest that local permitting requirements are so burdensome as to cause cellular carriers financial harm and uncertainty, which might speak to the need for such a draconian measure as ruling out all meaningful state and local overview.

Finally, this proposal does nothing to ease the problem of finding willing property owners to take on cellular site leases. Property owners will increasingly demand assurances that any cellular facility located on their property is safe for them, their tenants, employees, families and neighbors; will not reduce property values nor decrease the suitability of the land for other development or future sale. What CTIA's proposal may indirectly do is to isolate property owners from independent, credible sources of state and local information to analysis potential impacts and liabilities associated with cellular sites.

Thank you for taking these comments under consideration.

Very sincerely:



Cindy Sage
Sage Associates